



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

20044034 E

Date: MAR 1 2004

Contact Person:

Identification Number:

UIL: 501.00-00

Contact Number:

Fax Number:

Employer Identification Number:

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The basis for our conclusion is set forth below.

You were formed on _____ pursuant to the laws of _____ and submitted your application under section 501(c)(3) of the Code on _____

You plan to establish a school to train ex-military personnel in the tactics of detecting and disarming landmines and to raise public awareness of the problem of landmines. Prospective students will be screened for alcohol and drug abuse. Students will also be required to sign an agreement to work for two years in an overseas country like Afghanistan. Your graduates will become instructors in the host countries. Your goal is to help the local governments establish their own demining program with your financial support.

You will not disarm mines in the field, you will disable them. You will teach students how to safely locate and mark mines that will later be detonated with plastic explosives. You will rely on the U.S. Army for the plastic explosives. You indicated that you are thinking about using closed U.S. Army bases located in the desert to train your students. Further, you have not begun to hire instructors, but hope to rely on U.S. Army Special Forces and the United Nations for instructors.

Students will not pay tuition, however, they will be required to sign an agreement to work overseas for the applicant for two years. You will fully support the graduates when teaching overseas. You have not provided any information regarding the overseas operations of your students or how you will establish agreements or other relationships with foreign governments.

A self-perpetuating Board of Directors governs you. You plan to establish a fundraising program, including multi-state mailings and requesting governmental grants. Although your Articles of Incorporation and your Bylaws provide for a minimum of 3 directors, you indicated

DR-055-2004

that you only have 2 directors currently because you are in the beginning stage. Directors will be compensated after the first year, possibly up to _____ per month.

You intend to provide uncompensated demining services to needed countries. However, you will distribute any excess funds for humanitarian purposes, like searching for water, health care services, and food. You plan to work with the U.S. Army Special Forces and the United Nations.

On March 14, 2003, the Service sent you a request for additional information needed to make a determination on your application. Your April 7, 2003, letter, did not answer the questions asked concerning your agreements with the United States Army and the United Nations, nor did you answer the question concerning negotiations with the U.S. Army or any other information regarding your working relationships with the U.S. Army or the United Nations.

Section 501(a) of the Internal Revenue Code exempts from taxation organizations described in subsection (c)(3), which includes corporations organized and operated exclusively for charitable, religious, scientific, and educational purposes. Furthermore, the aforementioned subsection requires that no part of the organization's net earnings inure to the benefit of any private shareholder or individual, that no substantial part of its activities is to influence legislation, and that it does not participate in any political campaign on behalf of or in opposition to any candidate for public office.

Section 1.501(c)(3)-(c)(1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-(d)(3) of the regulations provides that the term "educational" as used in section 501(c)(3) of the Code relates to:

- (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

Section 5.02 of rev. Proc 90-27, 1990-1 C.B. 514, provides that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere restatement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures or other means adopted or planned for carrying out the activities, the anticipated sources of receipts, and the nature of contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter

will be issued. In those cases where the organization is unable to fully describe its purposes and activities, a refusal to issue a ruling or determination letter will be considered an initial adverse determination from which administrative appeal or protest rights will be afforded.

You do not have any working relationship with the United States Arm Forces, the United Nations, or any other international organization that will make it feasible to conduct your activities. Therefore, you have not been able to show that you will be able to carry on to the proposed activities and thus that you will be able to be operated for exclusively exempt purposes under section 501(c)(3) of the Code, as provided in section 1.501(c)(3)-1(c)(1) of the regulations.

While providing instruction in a subject is educational, you have not provided sufficient detail explaining your detection/disarmament of landmines training or how you will carry out your proposed activities of working with overseas local governments or with the U.S. Army or the United Nations. You have not explained your activities in sufficient detail to support a favorable determination of exempt status under section 501(c)(3) of the Code. You have not provided specific details explaining how you will carry out your operations. Therefore, you have failed to establish a basis for exemption under section 501(c)(3). See Section 5 of Rev. Proc. 90-27, supra.

Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2508, Cincinnati, OH 45201.

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

Internal Revenue Service
Jorge L. Cuadros, Esq.
SE:T:EO:RA:T-1
1111 Constitution Ave, N.W.
Washington, D.C. 20224

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

(signed) Marvin Friedlander

Marvin Friedlander
Manager, Exempt Organizations
Technical Group 1

Cuadros/jlc/SE:T:EO:RA:T:1-JC/2/19/2004